

## The Quarterly Trucking Newsletter

A customized listing of the top news stories in your field, written and edited by attorneys from the Setliff & Holland trucking and transportation team.

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### **Truck Driver's Pulmonary Embolism: Accidental Death or Death Caused by Accident?**

On March 2, 2012, a truck driver was sitting in his cab filling out his travel logs when he suffered a pulmonary embolism and died. Three days after the driver's death, his wife filed a claim for coverage under the driver's "Truckers Occupation Accident Insurance" policy ("Policy"). The insurer denied coverage. The driver's estate then sued, challenging the Insurer's denial of coverage. The federal district court in Michigan found for the Insurer, and the estate appealed to the Sixth Circuit.

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### **Lessons For Brokers From a Negligent Hiring Case**

Recently, the United States District Court for the Western District of Virginia in Roanoke, issued an opinion touching on multiple topics related to a claim against a freight broker for negligent hiring of a driver. The driver was hired to haul laundry detergent from Texas to New York. The driver lost control of the truck, ran off the road, and came to rest blocking a southbound lane of I-81 at 3:00 A.M. Shortly thereafter, a woman was killed when she crashed into the truck while driving down the interstate.

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### **Court Reaffirms That Negligent Supervision Claims are Not Recognized in Virginia**

A man suffered significant injuries when he was struck by a driver operating a pickup truck owned by his employer during the scope of his employment in Norfolk. The man brought suit against the driver and his employer. For the claims against the employer, the man alleged negligent supervision/monitoring, negligent training, and negligent investigation.

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### House Bill to Delay ELD Mandate Fails

On September 6, a bill designed to delay the looming electronic logging devices mandate failed to pass in the House of Representatives. The bill, spearheaded by Republican Brian Babin of Texas, was part of an appropriations package and sought to prohibit funding for the implementation and enforcement of the mandate for a ten-month period. Congress voted 246-173 against the bill, which was one of multiple last-ditch efforts to delay or halt the mandate all together. Specifically, this marks the fourth time that Congress has voted to move forward with the mandate.

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### FMCSA Exempts Certain Drivers from Hours of Service Regulations as States of Emergency Declared Around U.S.

Recently, the states of Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, Texas, and Virginia have declared states of emergency due to Hurricanes Harvey and Irma. It is important for the many good Samaritan carriers providing aid in these states to understand what these declarations mean for their hours of service with regards to their records of duty status.

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### Workers' Comp: Injured Worker Not an Employee Where General Contractor

## Had Essentially No Control Over His Activity

A Claimant injured in a fall on a construction site failed to show he was entitled to workers' compensation, based upon his assertion he was a direct employee of a builder who had fewer than three employees and who was not subject to the Act, and a statutory employee of two other entities.



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